

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed December 4, 2002. Applicants respectfully request continued examination and provide a Request for Continued Examination herewith. Applicants submit that the new claims are proper, do not constitute new matter, and will not create an additional burden on the Examiner. The new claims are merely to make more explicit that which was implicit, inherent or intrinsic from an overall view of the claims as originally submitted. Therefore, it is respectfully requested that this amendment be entered.

CLAIM OBJECTIONS

In the Office Action mailed December 4, 2002, the Examiner objected to Claim 16 under 37 CFR 1.75(c) as being of improper dependent form. Applicants herein have canceled Claim 16, obviating Examiner's objection to Claim 16.

CLAIMS REJECTION UNDER 35 U.S.C. § 112

In the Office Action mailed December 4, 2002, the Examiner rejected Claims 6-8 and 10-12 under 35 U.S.C. § 112. Applicants herein have canceled Claims 6-8 and 10-12, obviating the Examiner's reasons for rejection.

CLAIMS REJECTION UNDER 35 U.S.C. § 102

In the Office Action mailed December 4, 2002, the Examiner rejected Claims 2-5 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,770,442 to Sichler. The

Examiner also rejected Claims 2-3 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,486,650 to Bridgstock et al. Applicants herein have canceled Claims 2-5 obviating Examiner's rejection of these claims.

The Examiner rejected Claims 13, 17-24 and 26-27 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,237,640 B1 to Vanderlee. The Vanderlee reference claims priority to a prior patent application filed on January 12, 2000. Applicants herein provide Declarations under 37 C.F.R. § 1.131 to show prior invention of the subject matter of the present application by Applicants. The Declaration of Mitchell D. Giannola, co-inventor of the present invention, is provided, which includes evidence of conception of the present invention prior to the effective date of the Vanderlee reference. The Declaration of William E. Muston, Manager of Research and Development for the assignee of the present patent application, is also provided. Mr. Muston's Declaration evidences his receipt of a disclosure of the invention prior to the effective date of the Vanderlee reference. Mr. Muston's Declaration also describes that co-inventor, Jeffrey L. Krout, is no longer employed with the assignee and that attempts to establish communication with Mr. Krout have been unsuccessful.

Applicants conceived the invention, which is the subject matter of the present application, prior to January 12, 2000, as evidenced by the enclosed Declarations. Applicants and Applicants' attorneys worked diligently from prior to the effective date of the Vanderlee reference until the time of constructive reduction to practice of the invention, as evidenced in Applicants' Declarations, which includes supporting

documentary evidence to this effect. For this reason, Applicants respectfully submit that the Vanderlee reference is not an effective reference under 35 U.S.C. § 102(e) and as such Claims 13, 17-24 and 26-27 are allowable.

In addition, Applicants have amended Claims 13 and 24 to include the additional aspect of a sealable vent coupled to the apparatus and in communication with the leak in the plastic pipe when the first and second portions are positioned to encapsulate the plastic pipe. The Vanderlee reference provides that a "sealed portal 90 is provided on the encapsulating section for tapping and testing the repair fitting interior space." (Col. 3, lines 62-65) The portal 90 is provided with a "threaded drive 102 that is threadingly screwed downward toward to the surface 152 until cutter 106 contacts surface 152 and until surface 152 is pierced so as to establish fluid communication between the interior of the carrier pipe 150 and all interior spaces of the fitting, as well as portal housing 92." (Col. 6, lines 5-10) The purpose of the portal is to purge the entrapped air out of the portal such that no additional oxygen is present. (See, Col. 6, lines 10-15) Applicants respectfully submit that a portal provided with a threaded drive for piercing the pipe does not disclose, teach or even suggest a sealable vent coupled to the apparatus and in communication with the leak in the plastic pipe when the first and second portions are positioned to encapsulate the plastic pipe, as provided in Applicants' amended Claims 13 and 24. For these reasons, Applicants respectfully submit that amended independent Claims 13 and 24 and Claims 17-23 and 26-32 which depend therefrom are allowable and Applicants earnestly seek such allowance. Applicants respectfully request

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that the Examiner withdrawn the rejection of Claims 13, 17-24 and 26-27 and pass same to issue.

Applicants' newly-added Claims 28-32 depend from independent Claims 13 and 24 and provide additional novel aspects that are not shown in the prior art and are allowable for this reason. Applicants respectfully request that the Examiner pass Claims 28-32 to issue.

CLAIMS REJECTION UNDER 35 U.S.C. § 103

In the Office Action mailed December 4, 2002, the Examiner rejected Claims 4 and 9 under 35 U.S.C. § 103(a). Applicants herein have canceled Claims 4 and 9 obviating Examiner's objection of these claims.

OTHER REFERENCES

The references cited by the Examiner but not relied on have been reviewed. Applicants submit that none of the references, either singularly or in combination, disclose, teach or even suggest Applicants' invention as disclosed and claimed in the present application. Thus, no further comments concerning such references are deemed necessary.

CONCLUSION

It is respectfully submitted that the Application, as now pending, is in condition for allowance for the reasons stated above. Therefore, Applicants respectfully request that the Examiner allow Claims 13, 17-24 and 26-32 and pass such claims to issue. Should the Examiner have any questions regarding this amendment, or the remarks contained herein, Applicants' attorney would welcome the opportunity to discuss this matter with the Examiner. Applicants' attorney can be reached at 214.979.3093.

To the extent that any further fees are required during the pendency of this Application, including petition fees, the Commissioner is hereby authorized to charge payment of any additional fees, including, without limitation, any fees under 37 C.F.R. § 1.16 or 37 C.F.R. § 1.17, to Deposit Account No. 23-3189 of Hunton & Williams (Dallas) and reference Attorney Docket No. 82274.472020. In the event that any additional time is needed for this filing, or any additional time in excess of that requested in a petition for an extension of time, please consider this a petition for an extension of time for any needed extension of time pursuant to 37 C.F.R. § 1.136 or any other section or provision of Title 37. Applicants respectfully request that the Commissioner grant any such petition and authorize the Commissioner to charge the Deposit Account referenced above. Please credit any overpayments to this same Deposit Account.

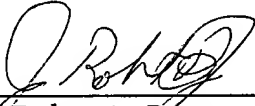
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This Amendment is intended to be a complete response to the
Office Action Mailed December 4, 2002.

Respectfully submitted,



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